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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,288	07/23/2001	Brian J. Berdan	114289-1640	2875
30734	7590	07/01/2004	EXAMINER	
BAKER + HOSTETLER LLP WASHINGTON SQUARE, SUITE 1100 1050 CONNECTICUT AVE. N.W. WASHINGTON, DC 20036-5304			SMITH, JULIE KNECHT	
ART UNIT		PAPER NUMBER		3682

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/911,288	BERDAN ET AL.	
Examiner	Art Unit		
Julie K Smith	3682		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 16 April 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-5,7-12,14-16,19 and 20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-5,7-12,14-16,19 and 20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 16 March 2004 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date . . . .  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: . . . .

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7-8, 16 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sorenson (5,598,598).

Regarding claim 1-4, 7-8, 16 and 19-20, Sorenson discloses an extensible handle, comprising a first elongated member (26), made of metal, having two ends and a plurality of side surfaces corresponding to a length of the first elongated member, the first end positioned to engage a device to be operated, the first elongated member further comprising an expanded portion of increased width (96,110,98) and a narrow portion of reduced width (26) relative to the expanded portion (see fig 5), the first elongated member comprising at least two receptacles, further comprising pins (92, see fig. 3) for receiving a restricting device (80,110, see fig. 6) through a side surface of the first elongated member (26, see fig. 3). Sorenson further discloses a hollow, metal second elongated member (54) having a first and second end wherein the first end had an outer face (see fig. 5), the second elongated member positioned to receive the first elongated member, the second elongated member further including a restricting means (77, see fig. 5) having a width that is narrower than the width of the expanded portion of the first elongated member and restricts the expanded portion of the first elongated member from fully

passing through both ends of the second elongated member, wherein in order to prohibit movement in an axial direction, the first end of the second elongated member is configured to be retained along a surface of the outer end face by the restricting device (see col. 7).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sorenson as applied to claims 1-4, 7-8, 16 and 19-20 above, in view of Messier (5,433,127). Sorenson discloses an extensible handle as claimed, but does not disclose the handle activating a jack or dolly. However, Messier teaches the use of an extensible handle (8) wherein activation of the handle by a user activates a jacking device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the extensible handle as claimed by Sorenson to activate a jacking device as taught by Messier so as to provide an extensible handle that can be extended or retracted without the removal or addition of parts.

5. Claims 9-12 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tallman (4,018,421) in view of Sorenson.

Regarding claims 9-11 and 14-15, Tallman discloses an apparatus for moving an item comprising a base (10), a supporting means (77) positioned above the base, an arm (71) having two ends, the arm positioned so that one end is pivotally related to the base, a lifting means (20), and a handle (21). Tallman does not disclose a handle as claimed by the Applicant.

However, Sorenson teaches an extensible handle, comprising a first elongated member (26), made of metal, having two ends, the first end positioned to engage a device to be operated, the first elongated member further comprising an expanded portion of increased width (110) and a narrow portion of reduced width (26) relative to the expanded portion (see fig 3), the first elongated member comprising at least two receptacles, further comprising pins (92, see fig. 3) for receiving a restricting device (80,110, see fig. 6) through a side surface of the first elongated member (26, see fig. 3). Sorenson further discloses a hollow second elongated member (54), made of metal, having two ends, the second elongated member positioned to receive the first elongated member, the second elongated member further including a restricting means (77, see fig. 5) having a width that is narrower than the width of the expanded portion of the first elongated member and restricts the expanded portion of the first elongated member from fully passing through both ends of the second elongated member, wherein in order to prohibit movement in an axial direction, the first end of the second elongated member is configured to be retained by the restricting device (see col. 7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the handle of Tallman with the extensible handle as taught by Sorenson so as to provide an extensible handle that can be extended or retracted without the removal or addition of parts.

Regarding claim 12, Tallman discloses an apparatus wherein activation of the handle by a user activates the lifting means, which in turn activates the arm and vertically moves the supporting means.

***Response to Arguments***

6. Applicant's arguments filed 4/16/04 have been fully considered but they are not persuasive.

Regarding the amendments to claims 1, 9 and 16, applicant has further defined the side surfaces corresponding to a length of the first elongated member. A "length" does not necessarily have to be along the longest portion of the member. A length can be defined along any surface of the member.

Regarding the second elongated member having two ends wherein one end has an outer end face retained by the restricting device, Figure 5 clearly shows an outer end face of a first end of said second member (54) being retained by the restricting device.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Smith whose telephone number is 703-305-3948. The examiner can normally be reached on Monday-Friday, 8-5:30, (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jks  
June 24, 2004

  
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